

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Gardena Specialized Processing, a.k.a  
Gardena Specialized Processing, Inc.,  
and  
George Kumazawa  
16520 South Figueroa Street  
Gardena, California 90248-2625

ID No. CAD 981 384 837

Respondent.

Docket HWCA 2005-1005

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Gardena Specialized Processing, Inc., Gardena Specialized Processing, and George Kumazawa (jointly referred to as Respondent).

1.2. Order to Correct Violations. On June 16, 2006, the Department issued an Order to Correct Violations (OCV) to Respondent, a true and correct copy of said OCV is attached hereto as Attachment A, and is incorporated herein by this reference. Respondent did not file a Notice of Defense to said OCV, which therefore became fully effective and final on July 6, 2006. On July 28, 2006, a Notice of Final Order was served on Respondent, a true and correct copy of said Notice of Final Order is attached hereto as Attachment B, and is incorporated herein by this reference.

1.3. Jurisdiction. Health and Safety Code, section 25187, subdivision (a), authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified

provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

## 2. DETERMINATION OF VIOLATIONS

2.1. The Department has determined that:

2.1.1. Respondent violated California Code of Regulations, title 22, section 66265.13, in that Respondent failed to prepare a written waste analysis plan and failed to obtain and maintain waste analysis records showing the hazardous characteristics of the wastes it treats onsite, as required pursuant to California Code of Regulations, title 22, section 67450.3, subdivision (c)(9), for facilities treating hazardous wastes under Permit by Rule (PBR).

2.1.2. Respondent violated California Code of Regulations, title 22, section 66265.192, in that Respondent operates at least eight separate tanks, and all associated piping and pumps, comprising two separate units used to treat hazardous waste, and did not prepare a written and certified hazardous waste tank system assessment, signed by a qualified, independent, registered professional engineer, attesting that these hazardous waste tank systems are suitably designed to hold and treat hazardous wastes.

2.1.3. Respondent violated California Code of Regulations, title 22, section 66265.16, in that Respondent failed to maintain documents showing that required training was given to all of its Site employees that are directly involved with hazardous waste management.

2.1.4. Respondent violated section 25185.6 of the Health and Safety Code on two separate occasions in that Respondent failed to provide the Department with specific information the Department requested, in writing, regarding Respondent's hazardous waste management activities.

2.1.5. Respondent violated California Code of Regulations, title 22, section

66265.52 in that Respondent failed to maintain an adequate contingency plan as required for facilities that treat hazardous wastes under PBR.

2.1.6. Respondent violated California Code of Regulations, title 22, section 66265.193 in that Respondent failed to provide adequate secondary containment for its hazardous waste tank system(s) used to hold and treat hazardous wastes.

2.1.7. Beginning on an unknown date, but before November 15, 2005, Respondent violated California Code of Regulations, title 22, sections 66265.191, 66265.192, and 66265.193, in that Respondent operated an underground “clarifier” and associated underground piping comprising a portion of Respondent’s hazardous waste tank system that used to manage listed Resource Conservation and Recovery Act (RCRA) waste discharged from Respondent’s filter press, without:

- (a) conducting annual leak tests;
- (b) preparing a written tank system assessment;
- (c) providing secondary containment; and,
- (d) providing leak detection equipment.

2.1.8. Respondent violated section 25201 of the Health and Safety Code in that Respondent treated hazardous wastes onsite without the required permits or grant of authorization.

2.1.9. Respondent violated California Code of Regulations, title 22, sections 66262.34, 66265.31, 66265.171, and 66265.176, in that Respondent stored spent acetone in an unlabeled, bulging (i.e., under high pressure) 55-gallon steel drum that was stored within 15 meters of the Site property line.

2.10. Respondent violated section 25200.14 of the Health and Safety Code in that as of the date of the Department’s inspection on November 15, 2005, Respondent had failed to prepare and submit a Phase I Environmental Assessment.

2.1.10. Respondent violated California Code of Regulations, title 22, sections

66265.171, 66265.31, 66265.176, and 66262.34 subsection (f), in that Respondent:

- (a) stored spent acetone in a bulging steel drum;
- (b) failed to locate containers holding ignitable acetone waste at least 15 meters (50 feet) from the Site property line;
- (c) failed to adequately label 6 containers holding hazardous waste.

2.1.11. Respondent violated Health and Safety Code section 25188, in that Respondent failed to comply with the Schedule for Compliance in the OCV.

### 3. SCHEDULE FOR COMPLIANCE

3.1. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. The violations have been corrected.

3.1.2. Respondent shall comply with all terms, requirements, and conditions set forth in Section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

and

Mr. Bill Jones, Chief  
Los Angeles County Fire Dept.  
5825 Rickenbacker Road  
Commerce, California 90040-3027

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department

regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this paragraph shall be extended by the term of the Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the

terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data and Document Availability.

3.9.1. Respondent shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data (including, without limitation, the results of any such sampling, testing and monitoring) generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondent shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

(a) comply with that request,

(b) deliver the documents to the Department, or

(c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties specified in paragraph 4.3, in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated into this Order upon approval by the Department.

3.12. Extension Request. If Respondent is unable to perform any activity or submit any document within the time required under this Order, Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### 4. OTHER PROVISIONS

4.1. Additional Enforcement Actions. By issuance of this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction involving either Respondent(s) or the Site.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties, and/or damages as provided by Health and

Safety Code section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Privileges. Nothing in this Order shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.5. Time Periods. "Days" for the purpose of this Order means calendar days.

#### 5. PENALTY

5.1. Based on the DETERMINATION OF VIOLATIONS set forth herein and in the OCV<sup>1</sup>, the Department sets the amount of Respondent's penalty at \$588,570.

5.2. Payment is due within 30 days from the effective date of the Order.

5.3. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this Order.

Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

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<sup>1</sup> OCV, Paragraph 4.1, states: Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions or to impose penalties for the violations alleged in this Order.



A photocopy of the check shall be sent to:

Mr. Charles A. McLaughlin, Chief State Oversight and Enforcement Branch Enforcement and Emergency Response Program Department of Toxic Substances Control 8800 Cal Center Drive Sacramento, California 95826-3200
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and
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James J. Grace, Esq. Staff Counsel Office of Legal Counsel Department of Toxic Substances Control 8800 Cal Center Drive Sacramento, California 95826-3200
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#### 6. RIGHT TO A HEARING

6.1. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

#### 7. EFFECTIVE DATE

7.1. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent submits a written request for a hearing within the twenty-day period.

Date of Issuance: June 12, 2007

Department of Toxic Substances Control

Original signed by Charles A. McLaughlin  
Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control